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GROUP 1600

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**FROM:**

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Client/Matter/Tkpr: 45112-014/3329

Date: February 28, 2001 Time Sent:

Number of pages including this page: 5

**TO:**

**Examiner Neil S. Levy**

Name: c/o Asst. Comm'r for Patents

Facsimile No. 703-305-3592

U.S. Patent and Trademark Office

Company: Group Art Unit 1616

Contact No. 703-308-2412

**COMMENTS:**

The attached Response to Written Restriction Requirement and Petition for Extension of Time are being filed in U.S. Patent Application Serial No. **09/362,189**. If you have any questions, please call me at (202) 756-8373.

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WDC99 397885-1.045112.0014

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Docket No.: 45112-014

MAR 01 2001

PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of

Steven M. BESSETTE, et al.

Serial No.: 09/362,189

Group Art Unit: 1616

Filed: July 28, 1999

Examiner: N. Levy

For: SYNERGISTIC AND RESIDUAL PESTICIDAL COMPOSITIONS CONTAINING  
PLANT ESSENTIAL OILS

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GROUP 1600

RESPONSE TO RESTRICTION REQUIREMENTAssistant Commissioner for Patents  
Washington, DC 20231

Sir:

In response to the Written Restriction Requirement mailed September 28, 2000, Applicants hereby elect, with traverse, Group II (claims 5-11) for initial prosecution on the merits. In response to the Election of Species Requirement, Applicants hereby elect for initial prosecution on the merits the plant essential oil species of benzyl alcohol and the pesticidal agent species of a pyrethrum (i.e., natural insecticide).

Applicants respectfully submit that a restriction requirement between patentably distinct inventions is proper only when there is a serious burden on the Patent Office to examine all of the claims in a single application even when it appears that appropriate reasons exist for a restriction requirement. M.P.E.P. § 803. To avoid unnecessary delay and expense to Applicant and duplicative examination by the Patent Office, Applicant respectfully requests that the above policy be applied in the present application because the subject matter of the pending claims is sufficiently related.

For instance, Group I is directed to pesticidal compositions comprising at least one plant essential oil. Group II is directed to pesticidal compositions comprising at least one plant essential oil in combination with a conventional pesticidal agent. Group III is drawn to methods

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Application Serial No. 09/455,543

of using the pesticidal compositions of Group I or Group II. Applicants respectfully submit that a search for the invention(s) of either of Groups I, II or III would necessarily overlap with a search for the invention(s) of remaining the Groups. Thus, a thorough search for the subject matter of any one claim of the above-captioned patent application would overlap with a search for the subject matter of the remaining claims such that a search and examination of the entire application can be made without serious burden. Further, as acknowledged by the Examiner, claims 5-11, 14 and 15 are generic to a plurality of disclosed species. Applicant respectfully submit that if claims reciting the elected species are found to be allowable, then claims containing all of the disclosed species should be allowable as well. Therefore, Applicant respectfully requests reconsideration and withdrawal of the restriction and election of species requirements.

Please grant any extension of time necessary for entry of this communication. Please charge any deficient fees, or credit any overpayment of fees, to Deposit Account No. 50-0417. A duplicate copy of this communication is attached.

Respectfully submitted,

MCDERMOTT, WILL & EMERY



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Registration No. 37,136

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CERTIFICATE OF FACSIMILE TRANSMISSION

I hereby certify that this document (including any paper referred to as being attached or enclosed) is being sent to the U.S. Patent and Trademark Office via facsimile transmission to (703) 305-3592 on the date indicated below, with a coversheet addressed to Assistant Commissioner for Patents, U.S. Patent and Trademark Office, Washington, D.C., 20231.

Date:

February 28, 2001

By:

  
Willem F. Gadiano, Registration No. 37,136